

INTRODUCED: 03/21/2016

REFERRED TO: Metropolitan and Economic Development Committee

SPONSOR: Councillors Adamson and Cordi

DIGEST: amends the Code to establish a community cat program, for additional requirements related to the care and treatment of animals, to clarify when an animal is at large, to clarify rabies vaccination requirements, and to update terminology and make other technical changes

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SOURCE:

Initiated by: Animal Care and Control

Drafted by: Office of Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_

Date: March 17, 2016

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CITY-COUNTY GENERAL ORDINANCE NO. , 2016

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code in order to establish a community cat program; for additional requirements related to the care and treatment of animals; to clarify when an animal is at large; to clarify rabies vaccination requirements; and to update terminology and make other grammatical and technical changes.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The below specified portions of Chapter 531 of the "Revised Code of the Consolidated City and County," regarding Animals, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Chapter 531**

**ANIMALS**

**ARTICLE I. GENERAL PROVISIONS**

**Sec. 531-101. Definitions.**

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

*Animal* means any living, nonhuman vertebrate creature.

*Animal care and control division* means the animal care and control division of the department of public safety.

*Animal care and control shelter* means the shelter described in section 251-321 of this Code.

*At large* means ~~not confined without means of escape of any portion of the animal's body in a pen, corral, yard, cage, house, vehicle or other secure enclosure, unless on a leash and under the control of a competent human being.~~ being loose and free roaming, not being on a leash and under the control of a

competent person, or any portion of the animal's body not being confined within a pen, corral, yard, cage, house, vehicle, or other secure enclosure or structure or by other means that prevents escape.

~~Colony means a group of one (1) or more free-roaming cats, whether unmanaged or managed.~~

~~Colony caretaker means a person who provides food, water and shelter for free-roaming cats in a managed colony.~~

Community cat means an unowned cat that has been captured, evaluated, ear tipped, sterilized and vaccinated against rabies by a licensed veterinarian and released in accordance with section 531-209 of this Code.

Community cat caretaker means a person that provides food, water or outdoor areas of shelter to a community cat and who is not otherwise prohibited from owning or keeping animals.

*Crime prevention dog* means and includes a dog that is trained and used by its owner or keeper primarily for the protection of persons or property, or both.

*Dangerous animal* means any animal that:

- (1) Would constitute a danger to human life or property if it were not kept in the manner required by this chapter;
- (2) Has caused serious injury to a person without having been provoked by that person;
- (3) At a place other than its owner's or keepers property has:
  - a. Chased or approached a person in a menacing fashion or apparent attitude of attack; or
  - b. Attacked another domestic animal; or
- (4) Because of its training or behavior, is capable of inflicting physical harm or death to humans.

*Dog* means and includes animals of the *Canis familiaris* species, and hybrids of a *Canis familiaris* and any other member of the *Canis* genus, including wolves.

*Domestic animals* means rabbits, cattle, horses, ponies, mules, donkeys, jackasses, llamas, swine, sheep, goats, dogs, cats and poultry.

*Exposed to rabies* means an animal has been exposed to rabies if it has been bitten by or been in contact with any animal known or reasonably suspected to have been infected with rabies.

*Free-roaming cat* means ~~any homeless, stray, wild or untamed cat.~~ a cat that is at large that does not possess an identification tag or microchip as required by section 501-202 of this Code nor has been ear tipped to indicate it is a community cat.

*Kennel* means a facility operated commercially and principally for the purpose of boarding, housing, grooming, breeding or training dogs or cats, or both. For purposes of this chapter, kennel shall not include a facility in or adjoining a private residence where dogs or cats are kept for the hobby of the owner, lessee or other occupant of the property using the animals for hunting, practice tracking, exhibiting in shows or field or obedience trials or for the guarding or protecting of the property, and an occasional sale of pups or kittens by the owner, lessee or other occupant of the property shall not make such property a kennel for the purposes of this chapter.

*Law enforcement animal* means an animal that is owned or used by a law enforcement agency for the purpose of aiding in the detection of criminal activity, enforcement of laws, the apprehension of offenders and ensuring the public welfare.

~~Managed colony means a colony of free-roaming cats that is registered with the animal care and control division or its designee and is maintained by a colony caretaker using trap, neuter, return methodology.~~

*Monitored* means that the animal:

- (1) Is controlled by means of a leash or other device held by a competent person, subject to the provisions of sections 531-401 and 531-728, which animal is sufficiently near the owner or handler as to be under his or her direct control and is obedient to that person's command;
- (2) Is on or within a vehicle being driven or parked; or
- (3) Is confined as required by this chapter.

*Nonbite exposure* means and includes scratches, abrasions, open wounds or mucous membranes contaminated with saliva or other potentially infectious material from a rabid animal.

~~Own means to keep, harbor or have custody, charge or control of an animal, and owner means and includes any person who owns an animal; however, veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of this Code, who temporarily keep animals owned by, or held for sale to, other persons shall not be deemed to own or be owners of such animals, but rather to be keepers of animals, and colony caretakers of managed colonies of free-roaming cats shall not be deemed to be owners or keepers of such animals.~~

Own means to keep, harbor or have custody, charge or control of an animal, and owner means and includes any person who owns an animal; however:

- (1) veterinarians and operators of kennels, pet shops and stables, as those terms are defined in Chapter 836 of this Code, who temporarily keep animals owned by, or held for sale to other persons shall not be deemed to own or be owners, but rather to be keepers of such animals.
- (2) a community cat caretaker shall not be deemed to own or keep a community cat but rather to provide limited oversight of such animals.

*Person* means and includes any individual, corporation, partnership or other association or organization, but shall exclude the following for purposes of section 531-401:

- (1) Police officers, federal or state armed forces, park rangers, game wardens, conservation officers and other such governmental agencies, with respect to actions that constitute a discharge of their official duties; and
- (2) An individual, partnership, corporation or other association, organization, or institution of higher education, ~~which~~ that is registered as a research facility with the United States Secretary of Agriculture under 7 USC § 2131 et seq., commonly known as the "Animal Welfare Act," while engaged in the course of their performance as such.

*Provoke* means the infliction of bodily harm on the animal or another person, or conduct that constitutes a substantial step toward the infliction of bodily harm on the animal or another person.

*Public safety board* means the board of public safety of the department of public safety.

*Serious injury* means any injury that results in permanent disfigurement, unconsciousness, extreme pain, or permanent or protracted loss or impairment of the function of a bodily member or organ- and includes, in regard to an animal, an injury requiring euthanasia.

*Quarantining authority* means the department of public safety, its contractors, agents, employees and designees, acting under directives and regulations of the Health and Hospital Corporation of Marion County or the state board of animal health.

~~*Shelter* means the animal care and control facility located at 2600 South Harding Street in the city.~~

*Veterinarian* means a person licensed to practice veterinary medicine in the state.

*Wild animal* means and includes:

- (1) A Class III wild animal for which a state permit is required under 310 IAC 3.1-11-8 and/or IC 14-22-26; and
- (2) A venomous snake, poisonous amphibian, or other large reptile.

## ARTICLE II. DOGS AND CATS

### **Sec. 531-202. Permanent identification of dogs and cats required.**

(a) A person who owns a dog or cat in the consolidated city and county shall ensure that each dog or cat owned by that person bears a permanent means of identification at all times, such that the animal's owner of a lost or stolen dog or cat can be ascertained accurately, quickly, and easily.

(b) The means of identification required by this section shall be in addition to any tags required to be worn by dogs or cats by state law or other provision of this Code, and shall be either by means of:

- (1) A microchip implanted in the dog or cat or animal ~~which that~~ bears a registered identification number, and ~~which that~~ can be read by a standard microchip scanner; or
- (2) A permanent tag attached to a durable collar worn at all times by the dog or cat, and bearing the owner's current name, address and telephone number.

(c) Each veterinarian or other person in the consolidated city and county who implants microchips as contemplated in this section shall, ~~at an interval of not less than once each month, send~~ make available upon request to the animal care and control division the names, addresses, and phone numbers of the owners of the dogs and cats, and the corresponding microchip identification numbers. Such records shall be available to animal care and control division without court order.

(d) It shall be unlawful for a person to own a dog or cat three (3) months of age or older ~~which that~~ is kept in the consolidated city and county, and ~~which that~~ does not bear a permanent means of identification as provided in this section. A violation of this section shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code.

### **Sec. 531-205. ~~Care for unmanaged colonies prohibited.~~ Unlawful care for a free-roaming cat.**

It shall be unlawful for a person to provide food, water or shelter to a ~~colony of~~ free-roaming cat for a period of more than sixty (60) days ~~unless; in compliance with sections 531-209 and 531-210 of this Code. Animal Care and Control Division may impound community cats in violation of this chapter and dispose of the cats in accordance with section 531-731.~~

- ~~(1) The colony is a managed colony, that is registered with the animal care and control division or its designee; or~~
- ~~(2) The food, water or shelter is provided in conjunction with the implementation of trap, neuter, and return methodology as set forth in section 531-209 of this chapter.~~

### **Sec. 531-209. ~~Managed free-roaming cats.~~ Community cat program.**

(a) ~~The animal care and control division or its designee,~~ A community cat program is established in order to encourage the stabilization of the free-roaming cat population in the city; ~~may; by utilizing a trap, neuter, and return methodology.~~

- (b) ~~A person may (1) — Trap any free-roaming cat in a humane manner, utilizing a live release trap that does not injure the animal, and in accordance with the requirements of 531-407; in order to~~
- (2) ~~Have the free-roaming cat evaluated, surgically sterilized, ear-tipped, and vaccinated against rabies by a licensed veterinarian; and released to the vicinity from where it was trapped or released to a community cat caretaker.~~
- (3) ~~Release the cat to animal care and control for adoption or other disposition in accordance with law, or to a colony caretaker who will maintain the cat as part of a managed colony of free-roaming cats.~~

~~(bc) The enforcement authority may impound free-roaming cats in violation of this chapter and dispose of the cats in accordance with section 531-731. Any free-roaming cat impounded by the enforcement authority that bears an appropriate ear-tipping indicating it belongs to a managed colony. A Community Cat, impounded by the Animal Care and Control Division, shall may, at the discretion of the animal care and control division, be returned to its managed colony the vicinity from where it was trapped unless illness or injury the circumstances present an imminent danger a detriment to the cat or to the public health or safety welfare.~~

#### **Sec. 531-210. ~~Colony~~ Community cat caretaker responsibilities.**

(a) ~~Colony caretakers shall abide by standard guidelines devised by the animal care and control division or its designee regarding the provision of food, water, shelter and veterinary care for cats within the managed colony. A community cat caretaker shall abide by standard guidelines devised by the animal care and control division regarding the provision of food, water, shelter and veterinary care for a community cat as well as comply with section 531-209 of this Code.~~

(b) ~~Colony caretakers shall have a licensed veterinarian evaluate the health of all trapped free-roaming cats. Seriously ill or injured cats with no reasonable prognosis for humane rehabilitation for survival outdoors will be humanely euthanized. Community cat caretakers shall take a seriously ill or injured community cat to the Animal Care and Control Shelter or seek licensed veterinarian care for the community cat.~~

(c) ~~A person who violates any provision of this section shall be punishable as provided in section 103-3 of this Code; provided, however, a fine imposed for the first such violation shall not be less than twenty-five dollars (\$25.00); subsequent or continued violations caretaker's removal from the management of the managed colony, or the designee's removal from the program.~~

### **ARTICLE III. RABIES CONTROL**

#### **Sec. 531-301. ~~Antirabies~~ Rabies vaccinations required for ~~dogs and cats~~ certain animals.**

(a) ~~It shall be unlawful to keep a dog, or cat, or ferret or to provide food, water or shelter to a colony of free-roaming cats over the age of three (3) months in the city unless each cat, dog, or ferret is immunized against rabies by a vaccination performed by a veterinarian and the period of immunization specified by the veterinarian performing the vaccination has not expired, in accordance with 345 IAC 1-5-2. Community Cat Caretakers are not required to renew the immunization of Community Cats.~~

(b) ~~A person's first violation of this section shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations shall be subject to the enforcement procedures and penalties provided in section 103-3 of this Code.~~

#### **Sec. 531-302. Record of ~~antirabies~~ rabies vaccinations; tag required.**

(a) ~~A veterinarian who administers an a antirabies rabies vaccination in the city shall, at the time a dog, or cat, or ferret is vaccinated, issue to the animal's owner a durable antirabies rabies vaccination tag upon which is imprinted the name of the veterinarian's facility, telephone number and the year and serial unique identification number of the vaccination.~~

(b) Each owner of a dog, ~~or cat, or ferret~~ that is kept in the city shall cause the ~~antirabies rabies~~ vaccination tag to be affixed to the animal's collar, and to be worn by the animal at all times. A person's first violation of this subsection in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations in a twelve-month period shall be punishable as provided in section 103-3 of this Code.

(c) A veterinarian who administers ~~an a antirabies rabies~~ vaccination in the city to a free-roaming cat shall provide to the ~~colony community cat~~ caretaker written documentation of the administration of the vaccine, which shall include the name of the veterinarian's facility, telephone number and the year and ~~serial-unique identification~~ number of the vaccination.

~~(d) A colony caretaker of a colony of free-roaming cats must maintain at all times, for inspection by the enforcement authority as defined in section 531, article VII of this Code, a record of antirabies vaccination for all cats within a colony. A person's first violation of this subsection in a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103. A person's second and subsequent violations in a twelve-month period shall be punishable as provided in section 103-3 of this Code.~~

#### ARTICLE IV. CARE AND TREATMENT

##### **Sec. 531-407. Animal traps; requirements and prohibitions.**

(a) It shall be unlawful for a person to use, place, set or cause to be used, placed, or set any leg-hold trap or similar device upon any land or waters in the city.

(b) It shall be unlawful for a person to use, place, set or cause to be used, placed or set any snare, net or other device ~~which that~~ causes the trapping or capturing of any animal in any manner by which the animal is not either captured painlessly or killed instantly upon any land or waters in the city.

~~(c) Subsections (a) and (b) of this section shall not apply to a trap placed on private property, where the trap is placed and maintained by the owner, the owner's guest or agent.~~

~~(d)~~ It shall be unlawful for a person, having placed a lawful trap, snare or similar device in the city, to fail to inspect and empty it at least once during every twenty-four-hour period.

~~(e)~~ It shall be unlawful for a person to remove an animal in the city from any trap not on the person's property, unless such person has the express permission of the property's owner to do so.

(e) It shall be unlawful for a person, to use, place, set or caused to be used any animal traps during inclement weather. Weather temperatures below 20° Fahrenheit and above 90° Fahrenheit shall be deemed inclement weather for purposes of this chapter.

(f) Traps set for the purpose of capturing cats or dogs must be covered to protect trapped animals from the elements.

(g) Trapped cats or dogs must be transported in a temperature controlled environment.

#### ARTICLE VII. ENFORCEMENT AUTHORITY

##### DIVISION 2. IMPOUNDMENT AND DISPOSITION OF ANIMALS

##### **Sec. 531-721. Grounds for impoundment.**

(a) Any animal found at large in violation of this chapter shall be captured and impounded.

(b) Any animal found confined or abandoned on private property in violation of this chapter or section 836-5 of this Code shall be impounded.

(c) Any dangerous animal found at large or not confined as required by this chapter may be captured, impounded and its release shall be subject to the provisions of section 531-733.

(d) Section 531-731 notwithstanding, any free roaming cat is eligible to be processed through the community cat program immediately without hold.

**Sec. 531-724. Return of captured animal without impoundment.**

When the owner of a captured animal is known, such animal need not be impounded but may be returned to its owner if, in the opinion of the animal care and control officer, the return would not present a ~~danger~~ detriment to the public health or welfare or otherwise result in a violation of this chapter. A community cat shall be released where captured, unless reasonable options of return have been exhausted.

DIVISION 3. OTHER DISPOSITION OF ANIMALS

**Sec. 531-731. Disposition of owner-surrendered animals and impounded animals not claimed by owner; adoption.**

(a) An animal surrendered by its owner to the animal care and control division and not ~~reclaimed by its owner~~, adopted, or rescued by a humane or breed rescue organization, may be kept or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal care and control board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. No healthy, behaviorally sound, adoptable owner-surrendered animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care and control shelter ~~(keeping in mind the necessity of having empty places for animals to be moved during cleaning).~~

(b) An animal impounded under this article and ~~which that~~ is not claimed by its owner shall be confined by the enforcement authority in a humane manner for a period after capture of not less than ~~four (4) days~~ thirty-two (32) business hours. An animal not claimed within the ~~four-day~~ impoundment period may be kept, adopted, rescued by a humane or breed rescue organization or otherwise humanely disposed of, in the reasonable exercise of discretion of the enforcement authority, but consistent with such provisions as the animal care and control board shall make regarding the capture, surrender, impoundment, adoption, sale and destruction of animals. Even after the expiration of the ~~four-day~~ impoundment period, no animal shall be humanely disposed of, while there is sufficient room in the kennel to reasonably house such animal at the animal care and control shelter ~~(keeping in mind the necessity of having empty places for animals to be moved during cleaning).~~

(c) A free-roaming cat that is not spayed or neutered and is eligible for the community cat program is exempt from the mandatory thirty-two (32) business hour impoundment period and may be immediately processed through the community cat program.

(ed) Following the ~~four-day~~ thirty-two (32) business hour impoundment period, a person other than the animal's owner or a member of the owner's family who wishes to adopt an impounded animal ~~which that~~ has not been claimed, and ~~which that~~ is otherwise available for adoption, may adopt the animal. It is declared that the adoption of as many animals as possible is a priority of the animal care and control shelter. Such person wishing to adopt an animal from the animal care and control shelter shall pay to the city an adoption fee of fifty dollars (\$50.00) to cover the enforcement authority's expenses, including the expense of vaccinations; however, with respect to a dog or cat ~~which that~~ does not bear an identification microchip, the enforcement authority shall cause a microchip with a registered identification number to be implanted in the dog or cat prior to the animal's adoption, and the adoption fee for such a dog or cat shall be sixty dollars (\$60.00). The foregoing notwithstanding, animal care and control division may, upon the approval of the animal care and control board, set lower fees for adoption for special events and limited periods of time which shall be designated in advance and clearly defined. Such lowered rates may not be granted for individual animals, but may be designated by specified groups of animals.

(de) A person who wishes to adopt a dog or cat that has been impounded under this article or is otherwise available for adoption, and that has not been ~~must be~~ spayed or neutered, ~~must meet the~~

~~adoption and sterilization criteria adopted by the animal care and control board, and first shall agree in writing to have the animal spayed or neutered at that person's expense. Failure to have the animal spayed or neutered within sixty (60) days after the date of adoption shall be a violation of this Code prior to being released to any person who wishes to adopt the animal.~~

SECTION 2. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 3. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Maggie A. Lewis  
President, City-County Council

\_\_\_\_\_  
NaTrina DeBow  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2016, at 10:00 a.m.

\_\_\_\_\_  
NaTrina DeBow  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Joseph H. Hogsett, Mayor